

Appl. No. 10/554302  
Docket No. Z07865Q  
Amdt. dated May 21, 2010  
Reply to Office Action mailed on December 24, 2009  
Customer No. 27752

## REMARKS

### Claim Status

Claims 1, 4, 7, 8, 10-14, 17, 19, 20-22, are pending in the present application.

Claims 2-3, 5-6, 9, 15-16, and 18, were cancelled in a previous response.

Claims 1, 14, and 21, have been amended to more specifically characterize the hot-stamping tool. Support for the amendment is found at paragraph [0022] of the publication of the application at bar, US2006/0266795A1.

In addition, new Claim 22 has been added. Support for this amendment is found at paragraph [0022] of the publication of the application at bar, US2006/0266795A1.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

### Rejection Under 35 USC §103(a) Over Leyland in view of Horton, and in further view of Wickwire

Claims 1, 7, 8, 10-14, and 19-21, have been rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 4,893,555, issued to Leyland et al., hereafter, "Leyland", in view of U.S. Patent No. 3,817,172, issued to Horton, hereafter, "Horton", and in further view of U.S. Patent No. 2,306,256, issued to Wickwire, Jr. e al., hereafter, "Wickwire". Applicants respectfully traverse the rejection by the Office.

With regard to claim 1, Applicants assert that a *prima facie* case of obviousness has not been established with regard to claim 1. First, claim 1 recites, in part, "moving the stamping surface to press a carrier foil against the surface of the plastic work piece such that a pigment layer is transferred from the carrier foil onto the work piece". The stamping surface taught by Leyland, according to the understanding of the Applicants is stationary. (*See* col. 3, lines 4-22). Additionally, the movement of the stamping surface is not addressed in the remainder of the rejection.

Second, claim 1 additionally recites, in part, "sensing a characteristic of the work piece surface by means of a sensor, wherein the characteristic is selected from the group

consisting of color, roughness, and material type; and forwarding data indicative of the sensed characteristic to an evaluation device that subsequently adjusts a heating power of the heating device based, at least in part, on the sensed characteristic data.” Within the context of Leyland, the Office asserts that “one having ordinary skill in the art uses their senses to sense the characteristics of the work piece” and therefore, this person would adjust the “heating power of the heating device based, at least in part, on the characteristic data.

However, Leyland teaches a heating apparatus 42 which includes “a cartridge heater 44 held in a metallic holder 46 which is in contact with an outer surface 48 of the chute 38. (col. 3, lines 45-47). “The cartridge heater 44 is connected by electrical leads 56 to a control unit 58, which electrically powers and thermostatically controls the cartridge heater such that the cartridge heater is held at a substantially constant temperature.” (col. 3, lines 55-60). Based on the teachings of Leyland, the temperature of the cartridge heater is based upon the maintaining of a constant temperature in the cartridge heater. As such, Leyland expressly teaches away from the adjustment of the heating power based upon a characteristic of the work piece and instead ties the adjustment of heating power to the temperature of the cartridge heater.

Given Leyland’s express teaching of the methodology for controlling the temperature of the cartridge heater, one of skill in the art would have been dissuaded from manipulating the temperature of the cartridge heater based upon a characteristic of the work piece. Additionally, there is no assertion by the Office that any of the cited references teach these claim elements which are absent.

Based on the foregoing, the Office has failed to establish a *prima facie* case of obviousness against claim 1. Applicants assert therefore, that claim 1 is patentable over the suggested combination of references. Additionally, because claims 7, 8, and 10-13 depend from claim 1, Applicants assert that these claims are similarly patentable over the suggested combination of references.

With regard to claim 14, the Office rejects on the same grounds as claim 1. Claim 14 recites in part, “moving the heated stamping surface to press a carrier foil against the surface of the preheated work piece such that a pigment layer is transferred from the

carrier foil onto the work piece”. As discussed previously with regard to claim 1, the stamping surface taught by Leyland, according to the understanding of the Applicants is stationary. (See col. 3, lines 4-22). And, the movement of the stamping surface is not addressed in the remainder of the rejection.

Moreover, claim 14 also recites, in part, “sensing a characteristic of the work piece surface, wherein the characteristic is selected from the group consisting of color, roughness, and material type, and adapting a heating power of a work piece surface heater based, at least in part, on the sensed characteristic of the work piece.” Also, similar to the argument presented for claim 1, Leyland expressly teaches away from this portion of the claim.

For at least all of the reasons, presented above with regard to claim 1 and 14, the Office has failed to establish a *prima facie* case of obviousness against claim 14. Applicants assert therefore, that claim 14 is patentable over the suggested combination of references. Additionally, because claims 19 and 20 depend from claim 14, Applicants assert that these claims are similarly patentable over the suggested combination of references.

With regard to claim 21, the Office rejects on the same grounds as claim 1. Claim 21 recites in part, “moving the stamping surface to press a carrier foil against a surface of the work piece such that a pigment layer is transferred from the carrier foil onto the work piece”. As discussed previously with regard to claim 1, the stamping surface taught by Leyland, according to the understanding of the Applicants is stationary. (See col. 3, lines 4-22). And, the movement of the stamping surface is not addressed in the remainder of the rejection.

Moreover, claim 21 also recites, in part, “sensing a characteristic of the workpiece surface by means of a sensor; and forwarding data indicative of the sensed characteristic to an evaluation device that subsequently adjusts a heating power of the heating device based, at least in part, on the sensed characteristic data.” Also, similar to the argument presented for claim 1, Leyland expressly teaches away from this portion of the claim.

For at least all of the reasons, presented above with regard to claim 1, 14, and 21 the Office has failed to establish a *prima facie* case of obviousness against claim 21.

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Applicants assert therefore, that claim 21 is patentable over the suggested combination of references.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing, entry of the amendment(s) presented herein, reconsideration of this application, withdrawal of the rejections, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

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